

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

VPN.COM LLC,

Plaintiff;

v.

GEORGE DIKIAN et al.,

Defendants.

Case No. 2:22-cv-04453-AB-MAR

STIPULATED PROTECTIVE ORDER

I. PURPOSES AND LIMITATIONS

A. Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from

1 public disclosure and use extends only to the limited information or items that
2 are entitled to confidential treatment under the applicable legal principles. The
3 parties further acknowledge, as set forth in Section XIII(C), below, that this
4 Stipulated Protective Order does not entitle them to file confidential information
5 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed
6 and the standards that will be applied when a party seeks permission from the
7 Court to file material under seal.

8 **II. GOOD CAUSE STATEMENT**

9 A. This action is likely to involve trade secrets, customer lists, personal
10 identifiable information (“PII”), private and confidential email, and other
11 valuable research, development, commercial, financial, technical and/or
12 proprietary information for which special protection from public disclosure and
13 from use for any purpose other than prosecution of this action is warranted.
14 Such confidential and proprietary materials and information consist of, among
15 other things, confidential information from third-party service providers,
16 confidential business or financial information, information regarding
17 confidential business practices, or other confidential research, development, or
18 commercial information (including information implicating privacy rights of
19 parties and third parties), information otherwise generally unavailable to the
20 public, or which may be privileged or otherwise protected from disclosure under
21 state or federal statutes, court rules, case decisions, or common law.
22 Accordingly, to expedite the flow of information, to facilitate the prompt
23 resolution of disputes over confidentiality of discovery materials, to adequately
24 protect information the parties are entitled to keep confidential, to ensure that

1 the parties are permitted reasonable necessary uses of such material in
 2 preparation for and in the conduct of trial, to address their handling at the end
 3 of the litigation, and serve the ends of justice, a protective order for such
 4 information is justified in this matter. It is the intent of the parties that
 5 information will not be designated as confidential for tactical reasons and that
 6 nothing be so designated without a good faith belief that it has been maintained
 7 in a confidential, non-public manner, and there is good cause why it should not
 8 be part of the public record of this case.

9 **III. DEFINITIONS**

10 A. Action: This pending federal lawsuit.

11 B. Challenging Party: A Party or Non-Party that challenges the designation
 12 of information or items under this Order.

13 C. "CONFIDENTIAL" Information or Items: Information (regardless of how
 14 it is generated, stored or maintained) or tangible things that qualify for
 15 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
 16 the Good Cause Statement.

17 D. Counsel: Outside Counsel of Record and House Counsel (as well as their
 18 support staff).

19 E. Designating Party: A Party or Non-Party that designates information or
 20 items that it produces in disclosures or in responses to discovery as
 21 "CONFIDENTIAL."

22 F. Disclosure or Discovery Material: All items or information, regardless of
 23 the medium or manner in which it is generated, stored, or maintained
 24 (including, among other things, testimony, transcripts, and tangible things), that

1 are produced or generated in disclosures or responses to discovery in this
2 matter, including without limitation disclosures from any Non-Party.

3 G. Expert: A person with specialized knowledge or experience in a matter
4 pertinent to the litigation who has been retained by a Party or its counsel to
5 serve as an expert witness or as a consultant in this Action.

6 H. House Counsel: Attorneys who are employees of a party to this Action.
7 House Counsel does not include Outside Counsel of Record or any other outside
8 counsel.

9 I. Non-Party: Any natural person, partnership, corporation, association, or
10 other legal entity not named as a Party to this action.

11 J. Outside Counsel of Record: Attorneys who are not employees of a party
12 to this Action but are retained to represent or advise a party to this Action and
13 have appeared in this Action on behalf of that party or are affiliated with a law
14 firm which has appeared on behalf of that party, and includes support staff.

15 K. Party: Any party to this Action, including all of its officers, directors,
16 employees, consultants, retained experts, and Outside Counsel of Record (and
17 their support staffs).

18 L. Producing Party: A Party or Non-Party that produces Disclosure or
19 Discovery Material in this Action.

20 M. Professional Vendors: Persons or entities that provide litigation support
21 services (e.g., photocopying, videotaping, translating, preparing exhibits or
22 demonstrations, and organizing, storing, or retrieving data in any form or
23 medium) and their employees and subcontractors.
24

1 N. Protected Material: Any Disclosure or Discovery Material that is
 2 designated as “CONFIDENTIAL” at the time of production, or which is produced
 3 by any Non-Party and designated “CONFIDENTIAL” by either party within
 4 seven (7) days of this Order (as for information already received by such party),
 5 or within fourteen (14) days of receiving such information, whichever is later.

6 O. Receiving Party: A Party that receives Disclosure or Discovery Material
 7 from a Producing Party.

8 **IV. SCOPE**

9 A. The protections conferred by this Stipulation and Order cover not only
 10 Protected Material (as defined above), but also (1) any information copied or
 11 extracted from Protected Material; (2) all copies, excerpts, summaries, or
 12 compilations of Protected Material; and (3) any testimony, conversations, or
 13 presentations by Parties or their Counsel that might reveal Protected Material.

14 B. Any use of Protected Material at trial shall be governed by the orders of
 15 the trial judge. This Order does not govern the use of Protected Material at trial.

16 **V. DURATION**

17 A. Even after final disposition of this litigation, the confidentiality
 18 obligations imposed by this Order shall remain in effect until a Designating
 19 Party agrees otherwise in writing or a court order otherwise directs. Final
 20 disposition shall be deemed to be the later of (1) dismissal of all claims and
 21 defenses in this Action, with or without prejudice; and (2) final judgment herein
 22 after the completion and exhaustion of all appeals, rehearings, remands, trials,
 23 or reviews of this Action, including the time limits for filing any motions or
 24 applications for extension of time pursuant to applicable law.

1 **VI. DESIGNATING PROTECTED MATERIAL**

2 A. Exercise of Restraint and Care in Designating Material for Protection

3 1. Each Party or Non-Party that designates information or items for
4 protection under this Order must take care to limit any such designation
5 to specific material that qualifies under the appropriate standards. The
6 Designating Party must designate for protection only those parts of
7 material, documents, items, or oral or written communications that
8 qualify so that other portions of the material, documents, items, or
9 communications for which protection is not warranted are not swept
10 unjustifiably within the ambit of this Order.

11 2. Mass, indiscriminate, or routinized designations are prohibited.
12 Designations that are shown to be clearly unjustified or that have been
13 made for an improper purpose (e.g., to unnecessarily encumber the case
14 development process or to impose unnecessary expenses and burdens on
15 other parties) may expose the Designating Party to sanctions.

16 3. If it comes to a Designating Party's attention that information or
17 items that it designated for protection do not qualify for protection, that
18 Designating Party must promptly notify all other Parties that it is
19 withdrawing the inapplicable designation.

20 B. Manner and Timing of Designations

21 1. Except as otherwise provided in this Order (*see, e.g.*, Section
22 B(2)(b) below), or as otherwise stipulated or ordered, Disclosure or
23 Discovery Material that qualifies for protection under this Order must be
24 clearly so designated before the material is disclosed or produced. If the

1 Disclosure or Discovery Material is produced by a Non-Party, then either
2 party may designate any such material “CONFIDENTIAL” within seven
3 (7) days of this Order (as for information already received by such party),
4 or within fourteen (14) days of receiving such information, whichever is
5 later.

6 2. Designation in conformity with this Order requires the following:

7 a. For information in documentary form (e.g., paper or
8 electronic documents, but excluding transcripts of depositions or
9 other pretrial or trial proceedings), that the Producing Party affix
10 at a minimum, the legend “CONFIDENTIAL” (hereinafter
11 “CONFIDENTIAL legend”), to each page that contains protected
12 material. If only a portion or portions of the material on a page
13 qualifies for protection, the Producing Party also must clearly
14 identify the protected portion(s) (e.g., by making appropriate
15 markings in the margins).

16 b. A Party or Non-Party that makes original documents
17 available for inspection need not designate them for protection
18 until after the inspecting Party has indicated which documents it
19 would like copied and produced. During the inspection and before
20 the designation, all of the material made available for inspection
21 shall be deemed “CONFIDENTIAL.” After the inspecting Party has
22 identified the documents it wants copied and produced, the
23 Producing Party must determine which documents, or portions
24 thereof, qualify for protection under this Order. Then, before

1 producing the specified documents, the Producing Party must affix
 2 the “CONFIDENTIAL legend” to each page that contains Protected
 3 Material. If only a portion or portions of the material on a page
 4 qualifies for protection, the Producing Party also must clearly
 5 identify the protected portion(s) (e.g., by making appropriate
 6 markings in the margins).

7 c. For testimony given in depositions, that the Designating
 8 Party identify the Disclosure or Discovery Material on the record,
 9 before the close of the deposition all protected testimony.

10 d. For information produced in form other than document and
 11 for any other tangible items, that the Producing Party affix in a
 12 prominent place on the exterior of the container or containers in
 13 which the information is stored the legend “CONFIDENTIAL.” If
 14 only a portion or portions of the information warrants protection,
 15 the Producing Party, to the extent practicable, shall identify the
 16 protected portion(s).

17 C. Inadvertent Failure to Designate

18 1. If timely corrected, an inadvertent failure to designate qualified
 19 information or items does not, standing alone, waive the Designating
 20 Party’s right to secure protection under this Order for such material.

21 Upon timely correction of a designation, the Receiving Party must make
 22 reasonable efforts to assure that the material is treated in accordance with
 23 the provisions of this Order.

24 **VII. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

1 A. Timing of Challenges

2 1. Any party or Non-Party may challenge a designation of
3 confidentiality at any time that is consistent with the Court's Scheduling
4 Order.

5 B. Meet and Confer

6 1. The Challenging Party shall initiate the dispute resolution process
7 under Local Rule 37.1 et seq.

8 C. The burden of persuasion in any such challenge proceeding shall be on
9 the Designating Party. Frivolous challenges, and those made for an improper
10 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
11 parties) may expose the Challenging Party to sanctions. Unless the Designating
12 Party has waived or withdrawn the confidentiality designation, all parties shall
13 continue to afford the material in question the level of protection to which it is
14 entitled under the Producing Party's designation until the Court rules on the
15 challenge.

16 **VIII. ACCESS TO AND USE OF PROTECTED MATERIAL**

17 A. Basic Principles

18 1. A Receiving Party may use Protected Material that is disclosed or
19 produced by another Party or by a Non-Party in connection with this
20 Action only for prosecuting, defending, or attempting to settle this Action.
21 Such Protected Material may be disclosed only to the categories of
22 persons and under the conditions described in this Order. When the
23 Action has been terminated, a Receiving Party must comply with the
24 provisions of Section XIV below.

1 2. Protected Material must be stored and maintained by a Receiving
2 Party at a location and in a secure manner that ensures that access is
3 limited to the persons authorized under this Order.

4 B. Disclosure of “CONFIDENTIAL” Information or Items

5 1. Unless otherwise ordered by the Court or permitted in writing by
6 the Designating Party, a Receiving Party may disclose any information or
7 item designated “CONFIDENTIAL” only to:

8 a. The Receiving Party’s Outside Counsel of Record in this
9 Action, as well as employees of said Outside Counsel of Record to
10 whom it is reasonably necessary to disclose the information for this
11 Action;

12 b. The officers, directors, and employees (including House
13 Counsel) of the Receiving Party to whom disclosure is reasonably
14 necessary for this Action;

15 c. Experts (as defined in this Order) of the Receiving Party to
16 whom disclosure is reasonably necessary for this Action and who
17 have signed the “Acknowledgment and Agreement to Be Bound”
18 (Exhibit A);

19 d. The Court and its personnel;

20 e. Court reporters and their staff;

21 f. Professional jury or trial consultants, mock jurors, and
22 Professional Vendors to whom disclosure is reasonably necessary
23 for this Action and who have signed the “Acknowledgment and
24 Agreement to be Bound” attached as Exhibit A hereto;

1 g. The author or recipient of a document containing the
2 information or a custodian or other person who otherwise
3 possessed or knew the information;

4 h. During their depositions, witnesses, and attorneys for
5 witnesses, in the Action to whom disclosure is reasonably
6 necessary provided: (i) the deposing party requests that the
7 witness sign the “Acknowledgment and Agreement to Be Bound;”
8 and (ii) they will not be permitted to keep any confidential
9 information unless they sign the “Acknowledgment and Agreement
10 to Be Bound,” unless otherwise agreed by the Designating Party or
11 ordered by the Court. Pages of transcribed deposition testimony or
12 exhibits to depositions that reveal Protected Material may be
13 separately bound by the court reporter and may not be disclosed to
14 anyone except as permitted under this Stipulated Protective Order;
15 and

16 i. Any mediator or settlement officer, and their supporting
17 personnel, mutually agreed upon by any of the parties engaged in
18 settlement discussions.

19 **IX. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED**
20 **IN OTHER LITIGATION**

21 A. If a Party is served with a subpoena or a court order issued in other
22 litigation that compels disclosure of any information or items designated in this
23 Action as “CONFIDENTIAL,” that Party must:
24

1 1. Promptly notify in writing the Designating Party. Such notification
2 shall include a copy of the subpoena or court order;

3 2. Promptly notify in writing the party who caused the subpoena or
4 order to issue in the other litigation that some or all of the material
5 covered by the subpoena or order is subject to this Protective Order. Such
6 notification shall include a copy of this Stipulated Protective Order; and

7 3. Cooperate with respect to all reasonable procedures sought to be
8 pursued by the Designating Party whose Protected Material may be
9 affected.

10 B. If the Designating Party timely seeks a protective order, the Party served
11 with the subpoena or court order shall not produce any information designated
12 in this action as “CONFIDENTIAL” before a determination by the Court from
13 which the subpoena or order issued, unless the Party has obtained the
14 Designating Party’s permission. The Designating Party shall bear the burden
15 and expense of seeking protection in that court of its confidential material and
16 nothing in these provisions should be construed as authorizing or encouraging a
17 Receiving Party in this Action to disobey a lawful directive from another court.

18 **X. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
19 **PRODUCED IN THIS LITIGATION**

20 A. The terms of this Order are applicable to information produced by a Non-
21 Party in this Action and designated as “CONFIDENTIAL.” Such information
22 produced by Non-Parties in connection with this litigation is protected by the
23 remedies and relief provided by this Order. Nothing in these provisions should
24 be construed as prohibiting a Non-Party from seeking additional protections.

1 B. In the event that a Party is required, by a valid discovery request, to
 2 produce a Non-Party's confidential information in its possession, and the Party
 3 is subject to an agreement with the Non-Party not to produce the Non-Party's
 4 confidential information, then the Party shall:

5 1. Promptly notify in writing the Requesting Party and the Non-Party
 6 that some or all of the information requested is subject to a
 7 confidentiality agreement with a Non-Party;

8 2. Promptly provide the Non-Party with a copy of the Stipulated
 9 Protective Order in this Action, the relevant discovery request(s), and a
 10 reasonably specific description of the information requested; and

11 3. Make the information requested available for inspection by the
 12 Non-Party, if requested.

13 C. If the Non-Party fails to seek a protective order from this court within 14
 14 days of receiving the notice and accompanying information, the Receiving Party
 15 may produce the Non-Party's confidential information responsive to the
 16 discovery request. If the Non-Party timely seeks a protective order, the
 17 Receiving Party shall not produce any information in its possession or control
 18 that is subject to the confidentiality agreement with the Non-Party before a
 19 determination by the court. Absent a court order to the contrary, the Non-Party
 20 shall bear the burden and expense of seeking protection in this court of its
 21 Protected Material.

22 **XI. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

23 A. If a Receiving Party learns that, by inadvertence or otherwise, it has
 24 disclosed Protected Material to any person or in any circumstance not

1 authorized under this Stipulated Protective Order, the Receiving Party must
 2 immediately (1) notify in writing the Designating Party of the unauthorized
 3 disclosures, (2) use its best efforts to retrieve all unauthorized copies of the
 4 Protected Material, (3) inform the person or persons to whom unauthorized
 5 disclosures were made of all the terms of this Order, and (4) request such person
 6 or persons to execute the “Acknowledgment and Agreement to be Bound” that is
 7 attached hereto as Exhibit A.

8 **XII. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
 9 **PROTECTED MATERIAL**

10 A. When a Producing Party gives notice to Receiving Parties that certain
 11 inadvertently produced material is subject to a claim of privilege or other
 12 protection, the obligations of the Receiving Parties are those set forth in Federal
 13 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
 14 whatever procedure may be established in an e-discovery order that provides for
 15 production without prior privilege review. Pursuant to Federal Rule of Evidence
 16 502(d) and (e), insofar as the parties reach an agreement on the effect of
 17 disclosure of a communication or information covered by the attorney-client
 18 privilege or work product protection, the parties may incorporate their
 19 agreement in the Stipulated Protective Order submitted to the Court.

20 **XIII. MISCELLANEOUS**

21 A. Right to Further Relief

22 1. Nothing in this Order abridges the right of any person to seek its
 23 modification by the Court in the future.

24 B. Right to Assert Other Objections

1 1. By stipulating to the entry of this Protective Order, no Party waives
 2 any right it otherwise would have to object to disclosing or producing any
 3 information or item on any ground not addressed in this Stipulated
 4 Protective Order. Similarly, no Party waives any right to object on any
 5 ground to use in evidence of any of the material covered by this Protective
 6 Order.

7 C. Filing Protected Material

8 1. A Party that seeks to file under seal any Protected Material must
 9 comply with Civil Local Rule 79-5. Protected Material may only be filed
 10 under seal pursuant to a court order authorizing the sealing of the specific
 11 Protected Material at issue. If a Party's request to file Protected Material
 12 under seal is denied by the Court, then the Receiving Party may file the
 13 information in the public record unless otherwise instructed by the Court.

14 **XIV. FINAL DISPOSITION**

15 A. After the final disposition of this Action, as defined in Section V, within
 16 sixty (60) days of a written request by the Designating Party, each Receiving
 17 Party must return all Protected Material to the Producing Party or destroy such
 18 material. As used in this subdivision, "all Protected Material" includes all copies,
 19 abstracts, compilations, summaries, and any other format reproducing or
 20 capturing any of the Protected Material. Whether the Protected Material is
 21 returned or destroyed, the Receiving Party must submit a written certification to
 22 the Producing Party (and, if not the same person or entity, to the Designating
 23 Party) by the 60 day deadline that (1) identifies (by category, where appropriate)
 24 all the Protected Material that was returned or destroyed and (2) affirms that the

Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material.

Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section V.

B. Any violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: 3/23/2023

Michael Cilento
Michael D. Cilento, Esq
Attorney(s) for Plaintiff

Dated: 3/23/2023

/s/ Mike Rodenbaugh
Mike Rodenbaugh
Attorney(s) for Defendant Dikian

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Dated: _____

HON. MARGO A. ROCCONI
United States Magistrate Judge

EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
 _____ [print or type full address], declare under penalty of perjury that I
 have read in its entirety and understand the Stipulated Protective Order that was issue
 by the United States District Court for the Central District of California on March 24,
 2023 in the case of VPN.COM LLC v. GEORGE DIKIAN et al, 2:22-cv-04453-AB-MAR,
 I agree to comply with and to be bound by all the terms of this Stipulated Protective
 Order and I understand and acknowledge that failure to so comply could expose me to
 sanctions and punishment in the nature of contempt. I solemnly promise that I will not
 disclose in any manner any information or item that is subject to this Stipulated
 Protective Order to any person or entity except in strict compliance with the provisions
 of this Order.

I further agree to submit to the jurisdiction of the United States District Court
 for the Central District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action. I hereby appoint _____ [print or
 type full name] of _____ [print or type full address and
 telephone number] as my California agent for service of process in connection with this
 action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed Name: _____

Signature: _____